



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable H. A. Pitman  
County Auditor  
Fayette County  
La Grange, Texas

Dear Sir:

Opinion No. O-3514

Re: Does the fee of 50¢ for the sheriff for each case tried apply when application is filed with the district clerk to be acted upon by the district judge to change the name of an individual, regardless of whether the application is or is not granted? - and a related question.

Your recent request for an opinion of this Department on the questions stated herein has been received.

We quote from your letter as follows:

"Article 3933, H.C.S. 1925, provides for a fee of 50 cents for the sheriff for each case tried.

"Does this charge apply when application is filed with District Clerk to be acted upon by the District Judge to change the name of an individual regardless of whether the application is or is not granted? Does this same 50 cent fee apply when suit for divorce is filed and not contested regardless of whether the divorce is or is not granted?"

Article 3933, Vernon's Annotated Civil Statutes, provides in part:

Hon. H. . . Pitman, page 2

"Sheriffs and Constables shall receive the following fees:

. . . .

"For each case tried in the District or County Court, a jury fee shall be taxed for the sheriff of . . . . . \$ .50.

. . . ."

Construing the above quoted provision of Article 3933, this Department in a letter opinion dated June 18, 1934, addressed to Honorable F. L. Massie, County Auditor, Vernon, Texas, and written by Ruel C. Walker, held: "It is the opinion of the writer and you are so advised that under this statute the sheriff is entitled to the fee of fifty cents for each case tried in the district or county court, and the fact that a jury is not requested is immaterial."

It is our opinion that the result of the case is immaterial. It will be noted that the above mentioned statute provides a fee of 50¢ for the sheriff for each case tried in the district or county court. We do not think that the sheriff is entitled to the above mentioned fee until the case has been actually tried. However, we think the holding of the above mentioned opinion is correct and respectfully advise you that the sheriff is entitled to the said fee of 50¢ in each of the above mentioned cases when actually tried.

Trusting that the foregoing fully answer your inquiries, we are

Yours very truly

APPROVED MAY 20 1941  
*Robert R. Allen*  
FIRST ASSISTANT  
ATTORNEY GENERAL

ATTORNEY GENERAL OF TEXAS

By *Arnell Williams*  
Arnell Williams  
Assistant

Am:R

